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VNUS Medical Technologies, Inc.

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

VNUS MEDICAL TECHNOLOGIES, INC.,	)	LEAD CASE NO. C08-03129 MMC
	)	
Plaintiff,	)	CASE NO. C08-3129 MMC
	)	
v.	)	<b>STIPULATION AND <del>PROPOSED</del></b>
	)	<b>ORDER SUBSTITUTING TYCO</b>
BIOLITEC, INC., DORNIER MEDTECH	)	<b>HEALTHCARE GROUP LP D/B/A</b>
AMERICA, INC., and NEW STAR LASERS,	)	<b>VNUS MEDICAL TECHNOLOGIES AS</b>
INC. d/b/a COOLTOUCH, INC.,	)	<b>PLAINTIFF AND COUNTER-CLAIM</b>
	)	<b>DEFENDANT PURSUANT TO FED. R.</b>
Defendants.	)	<b>CIV. P. 25(C)</b>
	)	
	)	

VNUS MEDICAL TECHNOLOGIES, INC.,	)	CASE NO. C08-04234 MMC
	)	(consolidated with C08-3129 MMC)
Plaintiff,	)	
	)	
v.	)	
	)	
TOTAL VEIN SOLUTIONS, LLC d/b/a	)	
TOTAL VEIN SYSTEMS,	)	
	)	
Defendant.	)	
	)	
	)	

1 WHEREAS, this action involves *inter alia* claims for patent infringement and  
2 counterclaims for invalidity, non-infringement, and unenforceability of the following patents: U.S.  
3 Patent Nos. 6,752,803; 6,769,433; 6,258,084; 7,396,355; and 7,406,970 (collectively, the “patents-  
4 in-suit”);

5 WHEREAS, at the time of filing this action, Plaintiff VNUS Medical Technologies, Inc.  
6 (“VNUS”) alleged that it owned all right, title and interest in the patents-in-suit;

7 WHEREAS, on June 26, 2009, VNUS executed and filed with the Secretary of State of the  
8 State of Delaware a Certificate of Conversion of VNUS into VNUS Medical Technologies, LLC  
9 (“VNUS LLC”);

10 WHEREAS, Tyco Healthcare Group LP d/b/a VNUS Medical Technologies (“THGLP”), a  
11 Delaware limited partnership, is the sole member, and owner of all the outstanding limited liability  
12 company interests, of VNUS LLC;

13 WHEREAS, on June 26, 2009, THGLP authorized and approved (i) the dissolution of VNUS  
14 LLC, and (ii) the winding up of VNUS LLC’s affairs and the distribution of its assets.

15 WHEREAS, in connection with and to effectuate such distribution, VNUS LLC and THGLP  
16 entered into an Assignment and Assumption Agreement whereby VNUS LLC assigned to THGLP all  
17 of the assets of VNUS LLC and THGLP assumed all of the liabilities of VNUS LLC;

18 WHEREAS, pursuant to the Assignment and Assumption Agreement effective June 26,  
19 2009, VNUS LLC transferred and assigned the entire right, title and interest in the patents-in-suit,  
20 including the right to sue for present, past and future infringement, to THGLP;

21 WHEREAS, THGLP accordingly has become the real party in interest in this litigation with  
22 standing to sue for present, past and future infringement of the patents-in-suit;

23 NOW, THEREFORE, the parties to this action, through their respective attorneys of record,  
24 stipulate and agree as follows:

25 1. Pursuant to Federal Rule of Civil Procedure 25(c), THGLP is substituted for VNUS  
26 as plaintiff and counter-claim defendant in the above-captioned action, and shall assume all of  
27 VNUS’s rights and obligations with respect thereto.

2. THGLP hereby acknowledges actual notice of this action and subjects itself to the jurisdiction of the Court in this action.

3. To avoid confusion, THGLP shall continue to be called VNUS for purposes of this action, which shall be re-captioned as follows: “Tyco Healthcare Group LP d/b/a VNUS Medical Technologies, Plaintiff/Counterclaim Defendant v. biolitec, Inc., Dornier MedTech America, Inc., and New Star Lasers, Inc. d/b/a CoolTouch, Inc., Defendants/Counterclaim Plaintiffs, Lead Case No. C08-03129 MMC” and “Tyco Healthcare Group LP d/b/a VNUS Medical Technologies, Plaintiff/Counterclaim Defendant v. Total Vein Solutions, LLC d/b/a Total Vein Systems, Defendant/Counterclaim Plaintiff, Case No. C08-04234 MMC (consolidated with Lead Case No. C08-3129 MMC).”

Dated: October 21, 2009

Respectfully Submitted,

ATTORNEYS FOR PLAINTIFF  
VNUS MEDICAL TECHNOLOGIES, INC.

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1 Pursuant to General Order No. 45, I hereby attest that that I have concurrence to file this  
2 stipulation from all parties whose signatures are indicated by a “conformed” signature (/s/) within  
3 this e-filed document.  
4

5 \_\_\_\_\_  
6 /s/ David J. Lisson

7 David J. Lisson

8 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

9 Dated: October 22 \_\_\_\_\_, 2009

10   
11 MAXINE M. CHESNEY  
12 United States District Judge  
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